

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

DANIEL E. LAFRENIERE,)	
)	
Plaintiff,)	
)	
)	
v.)	CIVIL ACTION NO. 04-40070-NG
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	

DEFENDANT'S MOTION TO DISMISS

The United States of America, through its counsel, Attorney Michael J. Sullivan, United States Attorney for the District of Massachusetts, herein moves this Court to dismiss the Plaintiff's Complaint pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6) for lack of subject matter jurisdiction. For the reasons set forth in the accompanying Memorandum of Law, defendant United States respectfully requests the Court to dismiss the Complaint of Plaintiff Daniel E. Lafreniere with prejudice for the following reasons:

- (1) Under Rule 12(b)(1), Fed. R. Civ. P., for lack of subject matter jurisdiction because plaintiff failed to comply with the applicable statute of limitations; and
- (2) Under Rule 12(b)(1), Fed. R. Civ. P., for lack of subject matter jurisdiction because this Court does not have subject matter jurisdiction over plaintiff's bailment claim.

WHEREFORE, based upon the arguments and authorities submitted in the accompanying Memorandum of Law, Defendant respectfully request this Court to dismiss Plaintiff's Complaint.

For the Defendant,

MICHAEL J. SULLIVAN,
United States Attorney

/s/Rayford A. Farquhar
RAYFORD A. FARQUHAR
Assistant U.S. Attorney
1 Courthouse, Suite 9200
Boston, MA 02210
(617) 748-3100

CERTIFICATE OF SERVICE

Suffolk, ss.

Boston, Massachusetts
March 18, 2005

I, Rayford A. Farquhar, Assistant U.S. Attorney, do hereby certify that I have served a copy of the foregoing upon plaintiff's counsel of record, Daniel E. Lafreniere, Reg. No. 90333-038, Federal Medical Center Devens, P.O. Box 879 Camp, Ayer, MA 01432.

/s/Rayford A. Farquhar
Rayford A. Farquhar
Assistant U.S. Attorney

LOCAL 7.1 CERTIFICATION

I, Rayford A. Farquhar, hereby certify that I was unable to contact the pro se plaintiff prior to filing this Motion to Dismiss.

/s/Rayford A. Farquhar
Rayford A. Farquhar
Assistant U.S. Attorney